

REMARKS

In the Office Action dated 29 July 2005, claims 1-10 were rejected and claims 11-15 withdrawn from consideration. Applicant has carefully considered the Office Action and submits the amendments above and the remarks to follow as a full and complete response thereto.

Applicant has cancelled claims 11-14, amended claims 1 and 2 and submitted new claims 15 and 16. Claims 1-10, 15 and 16 are submitted for reconsideration, as amended.

Applicant's invention is a tubular plastic novelty device primarily adapted for party games. When filled with a gelled, sweetened confection, normally containing beverage alcohol and commonly called a "shooter" the straw-like device is used to push or pull the shooter between the mouths of two or more "players."

The invention is in commercial distribution, being sold in a clear plastic tube having an O.D. of 0.836 in., an I.D. of 0.756 in., a wall thickness of 0.079 in., and a length of approximately 6.0 in. for a filled capacity of 50 ml (not counting head spaces). The device is semi-rigid or deformable but at the size sold cannot be bent like a drinking straw and cannot be crimped or pinched off by hand.

Claims 1-10 have been rejected under 35 USC 102(b) as being anticipated by Benefiel et al., U.S. Patent Number 4,981,468. Benefiel et al. is directed to a device for administering orally drugs which some, typically elderly, patients reject when presented in capsule or tablet form.

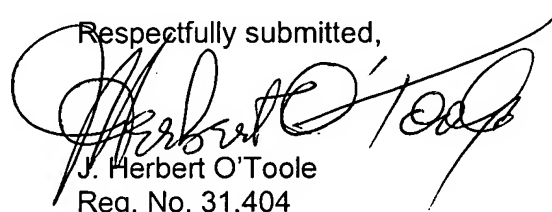
The reference device must have the dimensions of a typical drinking straw, with an O.D. of 2.5 to 12 mm (see attached web page for The Drinking Straw Company, Attachment A), if for no other reason than to limit the weight of liquid being drawn through the device by an elderly patient. Applicant's device as claimed is too large to be used in the manner disclosed in the reference.

To assist in understanding the claimed invention, applicant also attaches the following:

- 1) Attachment B: Applicant's web-site
- 2) Attachment C: Article from a publication in Greenville SC
- 3) Attachment D: Posted article from KPNX-TV in the Phoenix, AZ area

The attention of the Office is particularly directed to page 2, third paragraph of Attachment D. In the event that reconsideration does not result in allowance, Applicant reserves the right to submit an Affidavit of Commercial Success to support the secondary considerations for patentability, including acceptance within the industry and commercial success.

Respectfully submitted,



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Enclosures: Attachment A: The Drinking Straw Company web-page
Attachment B: Applicant's web-site
Attachment C: Article from a publication in Greenville SC
Attachment D: A posted article from TV Station KPNX in the Phoenix, AZ area

I hereby **CERTIFY** that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22131-1450.

Date: Sept 12 2005

by: 

Jacqueline Beavers

A

The Drinking Straw Company

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 FAX: +44 (0)1274 598696
 EMAIL: info@thedrinkingstrawcompany.com

PRODUCTS

Drinking straws in any quantity and a variety of styles

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How our products meet current directives and regulations

MILK IN SCHOOLS SCHEME

Cartons and straws as supplied to UK schools

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Plastic straws for a variety of drinks

MANUFACTURING FACILITY

Our manufacturing base and outputs

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Products

The Drinking Straw Company provide a wide variety of plastic drinking straws manufactured and packaged to suite various customers requirements. Straight straw sizes can range from 2.5mm to 12mm in width and 5cm to 100cm in length.

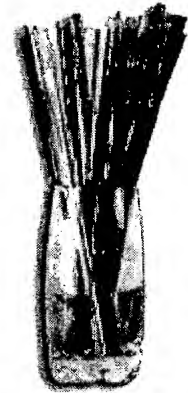
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Once you have chosen the diameter and length. You can choose whether you want the straw to be rounded at both ends, or if you prefer an angled cut at one end to assist with carton penetration.

You may have the straw in one solid colour of your choice, or a plain white straw with stripes running down, the choice of the stripe colour is yours.

Now that you have your straw you can decide what type of packaging you want it in. We can wrap the straws in printed or plain paper, printed or plain cellophane. [Click here](#) for example pictures. You can have the straws boxed in any type of packaging you require, boxes or poly bags of 200 - 1000. We can prepare any number of inner cartons to an outer carton size.

At any stage that you want printing on a product we will consult with you so that the information you want the customer to see will be there. Your logo is your representation in front of them and our objective is to present it at its best. [Click here](#) to read about solutions we were able to offer some of our customers.



B



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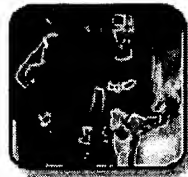
How You Do It...

SHOP NOW

Welcome to Suck & Blow, the "Next Generation of Shots" that is sweeping the nation. This innovative new product can spice up any party or social event where adults gather to have a good time, but should always be used responsibly. Please, look around this site ONLY if you are 21 or older.

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The hottest shooter for theme nights and mixers. Suck & Blow is sexy, fun and is a huge revenue generator for any night.

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Great packages available for fraternities sororities and any party planner looking for a fresh way to enhance the entertainment experience.



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Suck and blow?

Posted Monday, August 30, 2004 - 4:04 pm

By Clayton Kale

STAFF WRITER

ckale@upstatelink.com

Life must suck for Doug Hamer, Brian Higgins and Pano Stathakis, ever since they've begun promoting Hamer's invention. The entrepreneurs have gotten their product Suck and Blow into bars and nightclubs in 35 states by traveling to the establishments themselves and through business on their Web site.

They're already on sale at bars and clubs around the Upstate such as Gametime-Riptide. Usually, said Gametime-Riptide director of marketing Barbara LaFrance, "it's like a domino effect." People see others taking the shot and - what is it? Inspiration? Curiosity? - take a shot themselves.

"They're pretty awesome," LaFrance said. "they're bigger than your ordinary Jell-O shooter, let's put it that way."

At the end of this month, they're hoping to add a few more clubs that they sell to after attending a convention of club owners in Las Vegas.

"We were talking about it the other day. It's taken us to L.A., Las Vegas, all over Florida .," says Doug Hamer, who invented the Suck and Blow.

Two questions come immediately to mind. One: What is a Suck and Blow? And two: Why didn't I think of that?

Hamer helped us answer the first question. The second, well, we just lack vision.



Natalie Zatezala, left, and Jennie Shaw demonstrate proper use of a Suck and Blow, available in bars and nightclubs across the U.S. Staff/Matt Baldwin

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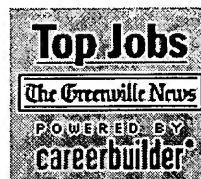
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Martini's future may be on the rocks with the arrival of Suck & Blow

Business Wire

Jul. 20, 2005 12:00 AM

GREENVILLE, S.C. - When Doug Hamer and Brian Higgins stumbled on the idea that they could pave their road to retirement with gelatin, or more correctly gelatin "shooters," the two thirty-somethings hit on a generational shift that replaces martinis with a social twist: interactive drinking.

The road to a possible nightlife phenomenon called Hamer out of the telecommunications world (he founded long-distance reseller Allsouth Communications) and Higgins out of information technology to create Suck & Blow, the first interactive beverage in the alcohol industry.

Suck & Blow are patented, six inch plastic tubes containing one-and-a-half ounces of flavored gelatin (13 percent alcohol, by volume). Safety-sealed caps on both ends of the tube require two mouths: one to blow out the gelatin and the other to suck it in. According to Hamer, "Suck & Blow gives hope to socializing singles who can use the need for a Suck & Blow partner to break the ice, rather than risk almost sure failure with those old, tired and just plain awful pick-up lines."

advertisement

Hamer and Higgins, who have known each other since high school, were attending a coastal water festival in 2001 where they noticed the consumption of tray-upon-tray of gelatin shots as well as the funnel method of downing beer. Inspiration (and a novel attempt to attract a certain someone) led Hamer to put a gelatin shot in the funnel tube and, after attracting the desired partner to lend a blow, the concept swept the festival and led Hamer and Higgins to seriously consider the realities of mass producing individual, tamper-proof and hygienic gelatin shots in a tube. In five months, the idea had the approval of the Food and Drug Administration and was on the shelves in liquor stores throughout South Carolina and Tennessee.



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Business Wire
Happy hour goes with the two-p shooter.

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With the dramatic increase in daily production, SAB is aggressively pursuing distributors in Florida, Georgia, California, Nevada, New Jersey, New York, Texas, Louisiana, Ohio, Illinois and other states. By year's end, SAB plans to be in 10 or more states.

According to Hamer, "Suck & Blow is a great ice breaker that brings people together. The interaction required by the product creates energy in bars and clubs when people get into it and it catches like wildfire."

And what about those people whose eyes first met from opposite ends of a Suck & Blow tube? Have there been any wedding bells as a result? Hamer won't name names, but he does admit to some pretty hot Suck & Blow stories being relayed to him via email. "Let's just say that there has been documented proof in our real-time, email and camera phone world, that Suck & Blow can make a successful introduction. What happens after that is between you and whoever's on the other end of the tube."

Today, Hamer and Higgins, through their company SAB Enterprises (www.suckandblow.com), have acquired the backing of several private investors and currently market Suck & Blow in 47 states, Canada, Japan and New Zealand. "Our goal is to make Suck & Blow the next Red Bull cult phenomenon," said Higgins. "Now that our distribution is progressing, we're working to brand the product with innovative visibility tactics, much like the ones deployed by Red Bull in their early days."

We've looked at every single angle of any other product out there in comparison to Suck & Blow and there isn't anything that combines the interactive opportunity and excitement of our product, or the hygienic and safety criteria that our product offers," said Higgins. "There are some other smaller competitors out there in the field of gelatin shots or shooters, such as the oral syringe, but we think we've trumped them with the Suck & Blow concept."

The adult beverage trade press has been supportive of the Suck & Blow concept, especially during the annual Nightclub and Bar trade show the past two years in Las Vegas where they have been singled out as one of the industry's "hot products." Early trade support has been pivotal in building customer demand, so much so that SAB Enterprises has announced plans to increase production from 6,000 Suck & Blow tubes per day to 75,000 tubes per day, or 20 million pieces per year.

In addition to the increase in production, consumer demand has driven distribution of Suck & Blow into 47 states, Canada, Japan and New Zealand. Currently, SAB Enterprises is selling through distributors in South Carolina and Tennessee.

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